

Honorable Dan McGee
Chair, Law and Justice Interim Committee
1925 Pinyon Dr.
Laurel, MT 59044

Dear Chair McGee:

Both the MHA and MMA stand in strong support of LC 7776 regarding the payment of hospitals and physicians for services rendered to patients injured as a result of a direct interaction with law enforcement officers and officials. The Law and Justice Interim Committee meets July 24-25, 2008, and we urge the committee to adopt LC 7776 as a committee bill.

This draft bill addresses a serious and chronic problem across Montana with a solution that is fair and not punitive. Hospitals and physicians have been unfairly absorbing the costs associated with treating these patients, and this bill establishes a reasonable process to secure reimbursement for medical services.

Attached are some statistics and "what if" scenarios that will hopefully shed more light on the need for this bill and its applicability. Historically, hospitals and physicians have not been capturing data related to these circumstances, which causes us to have quite limited specific information to illustrate the magnitude of this statewide problem. However, we are hopeful that a larger amount of data will be available for the 2009 legislative session.

The "what if" document has been prepared to serve as a guide to committee members in better understanding the applicability of LC 7776. There are many other scenarios that could be tested, but hopefully this basic information will provide enough assistance to give a clear picture of the intent of this draft bill.

Treating these patients is the result of very unique circumstances oftentimes involving dangerous individuals whose mere presence in our healthcare facilities places our other patients, staff, and visitors at risk for their safety. We strongly believe it is a reasonable expectation that hospitals and physicians should be reimbursed for the services provided to these particular patients under the specific conditions outlined in LC 7776.

We hope you will agree with us and appreciate your time and consideration.

Sincerely,



Dick Brown
President
MHA



G. Brian Zins
Executive Vice President
Montana Medical Association

Cc: Members, Law and Justice Interim Committee
Staff, Law and Justice Interim Committee
Montana Association of Counties
Montana League of Cities and Towns

**Law and Justice Interim Committee
LC 7776
Applicability – “What if” Scenarios**

“What if...”

<u>Scenario</u>	Local Government in line to pay hospitals and physicians under <u>LC 7776?</u>
# Patient is shot by law officers.	Yes.
# Patient with pre-existing addiction is determined to need rehab services.	No.
# Patient sustains broken arm while scuffling with law enforcement officers.	Yes.
# Patient has baby while in hospital after drop-off by law enforcement officers.	No.
# Patient sustains concussion while scuffling with law enforcement officers.	Yes.
# Patient with pre-existing heart condition is determined to need heart stents.	No.
# Patient sustains scrapes and bruises while scuffling with law enforcement officers.	Yes.
# Patient is inebriated when a detainee and is determined to need dry-out or rehab services.	No.
# Patient sustains internal injury while scuffling with law enforcement officers.	Yes.
# Patient with pre-existing condition is determined to need organ transplant.	No.



EXECUTIVE OFFICES

January 7, 2008

Senator Dan McGee
Chair, Law and Justice Interim Committee
Capital Building
Helena, MT 59620

Dear Chairman McGee:

St. Patrick Hospital and Health Sciences Center is moved to comment on the statewide issue of the uncompensated medical costs of recently apprehended but non-charged criminals placed in hospitals for treatment. In brief summary, the hospital would like to join the other voices expressing concern over law enforcement officials' practice of taking injured criminals for treatment without arresting the individuals for crimes and thereby not taking the financial responsibility for their treatment.

Let us for a moment consider the dichotomy of situations occurring today. If an incarcerated person is injured, he or she is transported for medical treatment at the hospital. The treatment costs are the responsibility of the city and county, although I understand there is an instance when an individual in jail was not arrested before being taken for treatment for self-inflicted injuries.

However, in another situation if a criminal is critically injured during apprehension, often the criminal is not charged until after a healthy release from the medical facility. There are burdens associated with an uncharged criminal:

1. The hospital must dedicate security personnel to the detention of the criminal and the safety of its healthcare providers. **A cost to the hospital.**
2. Cost associated with the medical treatment fall on the medical facility, not the government entities. **A cost to the hospital.**
3. In Missoula, in the case of a DUI resulting in a trauma, a death or bodily injury may occur resulting in both the intoxicated person and the affected injured party ending up at the same level II trauma emergency room. Without arrest, additional security personnel may be needed to mitigate interactions with the two parties and their families. Truly a tough, emotionally charged situation. **A cost to the hospital.**

Based on anecdotal situations here at St. Patrick Hospital & Health Sciences Center, we have started the implementation of a system to track and quantify impacts in 2008. Please consider us a resource available during your fact finding and deliberation. We respectfully wish to serve as good community partners in a larger solution.

Thank you for your time and consideration.

Sincerely,

Jeff D. Fee
President and CEO

Law and Justice Interim Committee
February, 10 & 11, 2008



St. Peter's Hospital

2475 Broadway • Helena, Montana 59601 • (406) 442-2480 • www.stpetes.org

January 10, 2008

Sen. Dan McGee
Chair, Law and Justice Interim Committee
Capitol Building
Helena, Montana 59620

Dear Chair McGee:

I noticed that on January 10th your Law and Justice Interim Committee is addressing the situation hospitals face when people arrive at our Emergency Department as a result of an "encounter" with law enforcement officials. Sometimes these people are dangerous, which is a serious concern unto itself, but the consistent concern is that their cases usually end up being charity care or bad debt for hospitals. Sometimes the bills for the services we provide such patients can be significant. Therefore, I appreciate your willingness to look at this important public policy matter to see if some changes can be made to improve the current way these matters are handled.

My understanding is that the whole question of who pays for these services is determined by whether or not the patient is under arrest. If the person is under arrest but has no insurance coverage and is unwilling to pay, which is usually the case, then the county pays the bill. The problem for hospitals is that for some reason these people never seem to be under arrest from the time they reach our door until they are discharged. There may be a legitimate reason why they are not under arrest thus relieving the county from any financial obligation, but from a hospital's perspective what this means is that we are almost always faced with a charity care or bad debt case.

Our hospital isn't faced with this situation every day, which probably explains why we don't keep specific records of these particular cases, but I know that there have been times when the cost of providing the healthcare services to these individuals has been pretty high. Invariably, these cases end up being charity care or bad debt, which carries its own implications for our charity care budget and resulting cost shift. Also, whenever we are faced with one of these situations, we are always concerned for the safety of our patients, visitors, and staff.

Our hospital has an excellent relationship with local law enforcement and elected officials, and I am not speaking up as any criticism aimed at them. This is just a situation where hospitals typically are absorbing costs and taking on safety risks, and we don't seem to have any options currently to change those conditions. That's why I'm hoping you and your committee will allocate some of your precious time to seek a workable solution.

I pledge to help you in any way that will be beneficial in this process. Please do not hesitate to contact me.

Thank you for your time and consideration.

Sincerely,

John H. Solheim, FACHE
President/CEO

Law and Justice Interim Committee
February, 10 & 11, 2008

Exhibit #6

June 25, 2008

Sen. Dan McGee
Chair, Law and Justice Interim Committee
Capitol Building
Helena, MT 59620

Dear Mr. Chairman:

I want to thank you and your committee for addressing issues pertaining to injured criminals and detainees receiving medical treatment at Montana hospitals.

At the outset, I want to emphasize that Benefis values their relationships with local law enforcement and local government officials. We appreciate the challenges they face in exercising their assigned duties and we are certainly sensitive to budget constraints.

A variety of situations wherein arrested and detained individuals brought to Benefis and "un-arrested" or otherwise released from custody upon admission have resulted in our hospital absorbing costs of dedicated security and uncompensated care.

One manager related instances wherein individuals arrested and detained at the detention center attempted to harm themselves and were brought to our behavioral health unit for evaluation and treatment. During the admission process, our staff was told these individuals were "no longer in custody" of the detention center. However, the deputies requested notification on discharge so they could "re-arrest" these individuals when the individuals exited our facility.

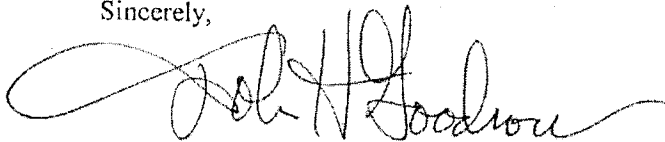
Earlier this month, a detainee was brought to our hospital to be treated for self-inflicted injuries. This detainee was also "un-arrested" prior to receiving care, but became agitated and violent, injuring three staff members in our obstetric unit. This "un-arrested" detainee patient presented such danger our staff initiated a Code White.

Our emergency department staff has also noted a number of cases wherein criminals were apprehended by police, but not arrested, and left in our care.

Our duty to ensure a safe environment for our patients, staff, and the general public is something we take very seriously. These patients are sometimes dangerous and that is a concern in and of itself. But the security we provide also comes at a cost we absorb – in addition to the costs associated with the healthcare for criminals either "un-arrested" or transferred to our care without a formal arrest.

We hope we can all arrive at a workable solution to this issue. Thank you again for taking the time to consider this matter. Please do not hesitate to contact me if I can be of assistance.

Sincerely,



John Goodnow, CEO
Benefis Health System

BENEFIS HEALTHCARE SYSTEM



**NORTHERN
MONTANA**

Health Care

P.O. Box 1231

30 Thirteenth Street

Helena MT 59501

June 26, 2008

Sen. Dan McGee
Chair, Law and Justice Interim Committee
Capitol Building
Helena, MT 59501

Dear Chairman McGee:

Thank you for the opportunity to comment on LC7776. It is an interesting and fiscally irresponsible situation that occurs when recently apprehended, but non-charged individuals are brought to our Emergency Department for care. The practice of "un-arresting" individuals not only shifts the financial responsibility of these sometimes dangerous criminals from the city/county to the hospital; but also has the potential to put hospital personnel in harms way.

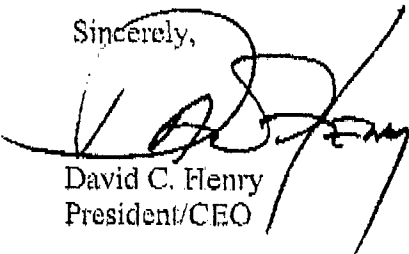
Most commonly, at our hospital, the individual who is brought in for care has no health insurance and no ability to pay privately for the services they receive. These cases usually end up being charity care or bad debt for the hospital. LC7776 would clarify that the city/county is responsible to pay for medical care as a last resort for patients whose medical needs arise as a result as an interaction with law enforcement.

On numerous occasions, the practice of law enforcement has been to request to be notified when the patient is discharged from the hospital. Medical Privacy laws prohibit the hospital from notifying law enforcement of a patients discharge; therefore, an "un-arrested" individual who is not in the custody of law enforcement is free to leave the hospital or seek transfer to a different facility, without the knowledge of law enforcement. This practice has the potential to harm all of society.

In reviewing the legislation, I would like you to consider modifying the language in NEW SECTION 2, 2(b) this section addresses the responsibility for reimbursing the hospital for the physician and professional services incurred by the hospital in the treatment of the patient but does not include reimbursing the hospital for the hospital services, which are integral to the treatment of the patient.

Thank you for the opportunity to respond. If you require additional information, please call me. Again, Northern Montana Hospital fully supports the intent of LC7776, which has the potential to alleviate a statewide problem that exists between law enforcement and hospitals.

Sincerely,


David C. Henry
President/CEO

/s/

NORTHERN MONTANA
HOSPITAL
(406) 265-2211

"Our Family . . . Caring for Yours"

NORTHERN MONTANA
CARE CENTER
(406) 265-2238



MARCUS DALY MEMORIAL HOSPITAL CORPORATION

June 19, 2008

Senator Dan McGee
Chair, Law and Justice Interim Committee
Capital Building
Helena, MT 59620

Dear Chairman McGee,

I am writing this letter to you and the Law and Justice Interim Committee regarding individuals who present to our emergency departments as a result of an encounter with law enforcement officials. This is a serious problem – not only for this rural hospital, but also for other rural hospitals in Montana when law enforcement officials present their injured criminals for treatment without arresting those individuals for crimes, and thereby not taking the financial responsibility for their treatment. We can provide examples of situations that have occurred in our small rural hospital.

To provide one situation for you -- the Montana Highway Patrol brought and presented an individual to our emergency room after a high speed chase which resulted in an accident. The patrolman told the attending physician that the individual was under arrest and approximately 45 minutes later we were informed that the individual was not under arrest and the patrolman left. We received a telephone call from the local law enforcement, asking us to notify them when the individual was to be discharged from the Emergency Department and they would have an officer present outside the door. This hospital is not faced with such a situation every day, but it does occur and there have been occasions where the cost of providing to healthcare services to these individuals was high. The hospital must then always write off the charges for the care of those individuals to bad debt. Please remember that the hospital writes off the care provided, and also the attending physician who has provided the care also has to write off his/her fees. There are times when these individuals are dangerous and I always have a concern for the safety of our healthcare providers.

Our hospital has an excellent working relationship with both the Hamilton City Police and the Ravalli County Sheriff's Department.

I would like to thank you and the Committee for your willingness to look at this important public policy to see if some changes can be made to improve how hospitals and physician providers are compensated for services provided to the individuals mentioned above. Your hospitals will continue to be the safety net in your community for the care of all individuals. Thank you for your time and consideration.

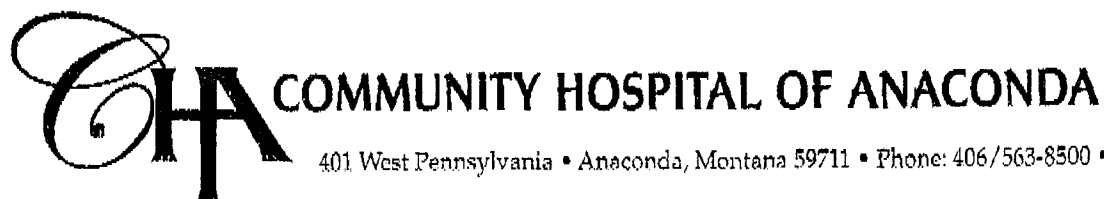
Sincerely,



JOHN M. BARTOS, CEO

JMB:gk

cc: Bob Olsen, VP, MHA



401 West Pennsylvania • Anaconda, Montana 59711 • Phone: 406/563-8500 • Fax: 406/563-8565

June 23, 2008

Sen. Dan McGee
Chair, Law and Justice Interim Committee
Capitol Building
Helena, MT 59620

Dear Chair McGee:

Please accept this letter of comment on the statewide issue of uncompensated medical costs of apprehended, but non-charged criminals placed in hospitals for treatment.

Community Hospital of Anaconda is concerned over the possibility that injured criminals may be taken to medical facilities for treatment prior to arrest, placing the financial responsibility of treatment into question. It is our understanding that the burden of financial responsibility is determined by whether or not the patient is under arrest. If the person is not under arrest, has no insurance coverage and is unwilling to pay, the financial responsibility falls back to the treating facility. Often times, the costs of treatment are significant, and hospitals are forced to charge these cases to charity care or bad debt, further stressing our already fragile financial positions.

Our facility is not faced with this situation every day and has not kept specific records of these particular cases. However, there have been numerous occasions when the cost of providing services to these individuals has become a financial burden to our facility.

Security for the hospital and medical staff may also become compromised when treating these patients. Hospital personnel are placed at risk and in potentially dangerous situations when law enforcement fails to provide security. Further, privacy laws prohibit medical facilities from notifying law enforcement officials about any facet of medical care if the patient is not in their custody. A person not in the custody of law enforcement is free to leave the hospital or seek transfer to another facility, creating a potential threat to public safety.

This letter is not intended to criticize our local law enforcement and county officials. Rather, it is in support of necessary legislation clarifying the financial responsibility for hospital costs related to the treatment of detainees.

Thank you for your time and consideration of this important issue. Please do not hesitate to contact me if you need additional information.

Sincerely,

A handwritten signature in dark ink, appearing to read 'John S. McNeece', is written over a horizontal line.

John S. McNeece, CEO

June 26, 2008

Sen. Dan McGee
Chair, Law and Justice Interim Committee
Capitol Building
Helena, MT 59620

Dear Chair McGee:

The purpose of this letter is to register our hospital's comments related to proposed legislation that is being considered by the Law and Justice Interim Committee. Particularly, this letter is intended to address proposed legislation currently identified as LC 7776.

First, I would like to make it clear that we enjoy a very good relationship with our law enforcement agencies in Glasgow and Valley County. We are aware that this legislation is intended to provide clear guidance for the payment of bills associated with healthcare provided to persons who are either pending arrest or in custody of law enforcement agencies and addresses concerns related to practices employed by some law enforcement agencies to minimize or avoid responsibility for payment for such healthcare services. To date, we have not experienced any of these types of practices with our local law enforcement agencies. That being said, healthcare costs continue to rise and, in certain years, these costs strain the budgets of our local law enforcement agencies. Although our experience to date has not been of concern, as these cost pressures continue, we can foresee that the practices employed in other jurisdictions may be adopted locally. Consequently, we support the intentions of this legislation in so far as it sets a clear path of responsibility for the proper formation of hospital – law enforcement relationships in regard to care provided to persons who are or will be placed in the custody of law enforcement.

In examining our hospital's current relationship with law enforcement, we find the impact of this bill to be minimal. Again, we have not experienced the practices that are of concern to others. In our current relationship, when the law enforcement agencies are responsible for payment for services, they pay our full charges. This bill would change that by setting a payment rate at the greater of the Medicaid rate or 70% of usual charges. A 30% discount is significantly larger than that which we agree to in other contracting arrangements. Last year our total charges in these cases were approximately \$2,300. There have been years that the amount was greater, but our past year's experience is the more typical. Consequently, the rates proposed in this legislation will have an insignificant impact on our organization. Should that change, we would hope that the legislature or the agency in charge of administration of the LC 7776 provisions consider adjustments in payment rates to assure hospitals are not adversely affected by these situations. To that end, within this proposed legislation, it may be wise to establish who is responsible for review and/or revision of payment terms.

Thank you for the opportunity to submit and for considering our comments. If there are any further questions regarding our hospital's position on this legislation, please contact me.

Sincerely,

Randall G. Holom
Chief Executive Officer
Frances Mahon Deaconess Hospital
Glasgow, MT

June 24, 2008

Senator Dan McGee
Chair, Law and Justice Interim Committee
Capital Building
Helena, MT 59620

Dear Senator McGee,

I am writing to you today to express some thoughts on the draft legislation LC7776 that addresses reimbursement to hospitals for the care rendered to persons in the custody of county or city law enforcement officials. Firstly, I would like to thank the Committee for addressing this issue.

In Broadwater County, the hospital, Broadwater Health Center, and the jail and law enforcement offices are virtually next door, and we maintain a very good relationship with law enforcement. I believe that the LC7776 draft, however, needs additional clarification, particularly in language that although is 'common sense' to the Committee, could leave health care organizations with little or no reimbursement for provided care.

Of major concern to me is the language as in Section 1, (2) (b) for instance, which says in part "... **the county is responsible for reimbursing the hospital for the physician and professional services incurred by the hospital** ...". In the healthcare industry, the term "professional services" generally refers to the charges levied by a physician for doing something that only physicians can do. For example, if a physician had to suture a wound, generally the physician would issue a charge for seeing the patient, and an additional charge for her/his time and effort in actually suturing the wound. As another example, if you go to a Dermatologist, you pay to get in, and you pay extra to get the wart removed!

In hospital organizations, however, there are significant charges generated simply as a function of the patient 'being here.' Daily room charges, drugs, x-rays, laboratory tests, emergency room charges, etc. are all appropriate examples.

The language cited above could easily be construed as to pay only for the fees generated by the physician, and not covering all of the other related expenses that the hospital organization would bear. More appropriate language would be "... **the county is responsible for reimbursing the hospital for its charges, and for physician fees, incurred in the provision of care** ...".

Another item that could pose a problem, particularly for many many Montana rural facilities, is that much of the care is actually provided by Nurse Practitioners or Physician Assistants. The word "physician" could be strictly interpreted to mean that payment would be made only for services provided by a medical doctor or doctor of osteopathy, and to exclude care provided by other providers. A better choice would be to use the term "**practitioner**" instead of "physician."

Finally, I have a concern that there will be many instances where the hospital provides care to an individual that is not strictly within the tenets of responsibility of the county, but nevertheless would not have normally been provided, except for the fact that law enforcement had brought the patient to the hospital. An example of this would be, for example, a person who was found by law enforcement to be under the influence of an illegal drug.

Although we all understand that there are literally scores of people in Montana that use drugs and sometimes to excess, most of those persons simply "sleep it off" and never enter either the law enforcement or health care systems. If, however, law enforcement brings them to a hospital for intervention, it appears that law enforcement is not responsible for charges, should other payor sources not be available. The implication is that an action of law enforcement has caused the hospital to incur a cost that it might not have otherwise had. It would be appropriate for law enforcement to share in those financial hardships.

Senator McGee, all of us here at Broadwater Health Center work diligently to provide the highest quality care to our community. We understand that many times we are providing care that will never be reimbursed, but we are committed to bringing our community a higher level of overall health. Again, we appreciate you and the Committee for your efforts in assisting us in this quest.

Thank you for your attention to this letter. If I can furnish additional information or answer any questions, please don't hesitate to contact me directly.

Sincerely,

Sam J. Allen, FACHE
CEO / Administrator
Broadwater Health Center
Townsend, MT



St. Luke Community Healthcare Network

The *HEART* of Healthcare In the Mission Valley

June 24, 2008

Senator Dan McGee
Chair, Law and Justice Interim Committee
Capital Building
Helena, MT 59620

Dear Chairman McGee,

The St. Luke Community Hospital Administration and Board of Trustees wishes to provide comment on the upcoming bill for an act clarifying responsibility for cost of medical treatment of a person who is detained by a law enforcement officer.

Pursuant to the requirements of the federal Emergency Medical Treatment and Labor Act (EMTALA), St. Luke Community Hospital as well as other Critical Access Hospitals in Montana, provides screening examinations and necessary treatment for any patient presenting to the emergency department regardless of ability to pay. This is true for patients who are in the custody of or are accompanied by law enforcement officers. Additionally, patients or their identified third party payers are billed for the services provided.

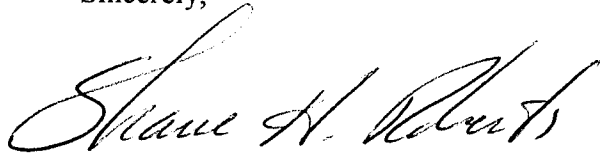
The issues that arise with patients who have been arrested or are likely to be charged with a crime following completion of medical treatment include:

- These patients are often "un-arrested" or not charged at the time of the requested medical treatment in order for the law enforcement agency to avoid incurring responsibility for payment.
- Because these patients are not technically arrested, law enforcement is not obligated to provide security for staff, physicians and other patients. In a small rural hospital it is unlikely that trained security staff exists or is available and this puts staff, physicians and other patients at risk. It also necessitates increased staff time to deal with patients who may be uncooperative, under the influence of drugs or alcohol, etc.
- Hospital staff members are often told to notify law enforcement when the patient is ready for discharge. This is a clear violation of the patient's HIPAA confidentiality rights. Law enforcement has no right to the patient's private health information if the patient has not been placed in their custody.

All of the above result in additional, frequently uncompensated cost to the local hospital when the cost of the care of prisoners should indeed be the responsibility of the law enforcement agency if the detainee does not have the resources to pay the bill.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in cursive script, reading "Shane H. Roberts". The signature is fluid and stylized, with a large initial 'S' and a prominent 'H'.

Shane H. Roberts
Chief Executive Officer



AN ASSOCIATION OF
MONTANA HEALTH
CARE PROVIDERS

Talking Points Pertaining to Medical Care for Detainees

Hospitals throughout Montana provide needed emergency and other medical care to prisoners, inmates and other persons in the custody or control of the police. The patients are referred for medical care by local law enforcement officers and detention center staff.

Medical needs required for persons referred by law enforcement and detention centers are sometimes the result of medical conditions that coincide with, but are not the result of, interaction with law enforcement officers. Examples of these medical needs include detoxification of alcohol or drugs, providing prescription medications, providing medical care that resulted from an accident or as the result of commission of crime.

In all cases hospitals bill the responsible party for needed health care services, including private insurance, automobile accident policies, Medicare and Medicaid. In a few cases, those arrested or being held in detention centers have private resources and can pay for their care.

When the patient's medical needs arise from interaction with the law enforcement officials the county should be responsible for the treatment needs, if other third party payment resources are not available. Examples of this kind of care include treating gunshot wounds, fractures and sprains, providing diagnostic radiology and laboratory services for those hurt during the arrest.

There are three major concerns that exist under the current statute:

Responsibility for the detainee is often denied by law enforcement officers. Persons in custody are "un-arrested", temporarily released from custody or face delayed charges while medical care is obtained. These strategies are nothing more than the county seeking to avoid financial responsibility and security needs.

Security for the hospital medical staff and employees. Persons detained by a law enforcement officer are often angry and combative. The patient poses a security risk for hospital employees. Hospital personnel are placed at risk and in a dangerous situation when law enforcement refuses to provide security.

Medical privacy rights mean that a hospital is not free to notify the law enforcement officer about any facet of the medical care if the person is not in their custody. This extends to notifying the law enforcement officer of discharge plans. A person not in the custody of law enforcement is free to leave the hospital or seek transfer to another facility. Hospitals are not detention centers.

LC7776 clarifies that the county is responsible to pay for medical care as a last resort for patients whose medical needs arise as a result of interaction with the law enforcement officer.

LC 7776 does not impose financial responsibility for such services as detoxification of alcohol and/or drugs from someone picked up under protective custody and referred for emergency care. LC7776 does not impose financial responsibility on the county for pre-existing conditions or for other medical needs that exist, but are not the result of the interaction with the law enforcement officer.

Funding medical care for detainees is a statewide problem. LC 7776 is needed to clarify responsibility and put an end to the games being played to avoid financial responsibility. Lack of clear responsibility is causing strained relations between local health care providers and county government, while imposing substantial financial burdens on the health care provider.

LC 7776 promotes an improved working relationship between the provider and law enforcement. Hospitals are able to communicate with law enforcement within medical privacy constraints when responsibility for the patient is established.

LC 7776 requires law enforcement officers to address security concerns for detainees receiving medical care.